

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

PIAZZA'S CARPET & TILE SHOP, INC.,
on behalf of itself and all others similarly
situated,

Plaintiff,

v.

CASE NO. 5:10-cv-00111

HICKORY SPRINGS MANUFACTURING COMPANY,
VALLE FOAM INDUSTRIES, INC., DOMFOAM
INTERNATIONAL, INC., THE CARPENTER COMPANY,
THE WOODBRIDGE GROUP,
FLEXIBLE FOAM PRODUCTS, INC.,
SCOTTD EL INC., FOAMEX INNOVATIONS,
INC., FUTURE FOAM, INC., VITAFOAM
PRODUCTS CANADA LIMITED, AND
VITAFOAM, INC.

Defendants.

JAMESTOWN MATTRESS CO., INC.,
on behalf of itself and all others similarly
situated,

Plaintiff,

v.

CASE NO. 5:10-cv-00113

HICKORY SPRINGS MANUFACTURING COMPANY,
VALLE FOAM INDUSTRIES, INC., DOMFOAM
INTERNATIONAL, INC., THE CARPENTER COMPANY,
THE WOODBRIDGE GROUP,
FLEXIBLE FOAM PRODUCTS, INC.,
SCOTTD EL INC., FOAMEX INNOVATIONS,
INC., FUTURE FOAM, INC., VITAFOAM
PRODUCTS CANADA LIMITED, AND
VITAFOAM, INC.,

Defendants.

THOMPSON TRADING COMPANY,

Plaintiff,

v.

HICKORY SPRINGS
MANUFACTURING COMPANY,
VALLE FOAM INDUSTRIES, INC.,
DOMFOAM INTERNATIONAL, INC.,
THE CARPENTER COMPANY, THE
WOODBIDGE GROUP, FLEXIBLE
FOAM PRODUCTS, INC., SCOTTDEL,
INC., FOAM EX INNOVATIONS, INC.,
FUTURE FOAM, INC., VITAFOAM
PRODUCTS CANADA LIMITED, AND
VITAFOAM, INC.,

Defendants.

CASE NO. 5:10-cv-00114

SHORE-LINE CARPET SUPPLIES, INC.,
on Behalf of Itself and all Others Similarly
Situated,

Plaintiff,

v.

HICKORY SPRINGS
MANUFACTURING COMPANY,
VALLE FOAM INDUSTRIES, INC.,
DOMFOAM INTERNATIONAL, INC.,
THE CARPENTER COMPANY, THE
WOODBIDGE GROUP, FLEXIBLE
FOAM PRODUCTS, INC., SCOTTDEL,
INC., FOAM EX INNOVATIONS, INC.,
FUTURE FOAM, INC., VITAFOAM
PRODUCTS CANADA LIMITED, AND
VITAFOAM, INC.,

Defendants.

CASE NO. 5:10-cv-00115

V & M, INC. d/b/a COSTA
INTERNATIONAL,

Plaintiff,

v.

HICKORY SPRINGS
MANUFACTURING COMPANY,
VALLE FOAM INDUSTRIES, INC.,
DOMFOAM INTERNATIONAL, INC.,
THE CARPENTER COMPANY, THE
WOODBIDGE GROUP, FLEXIBLE
FOAM PRODUCTS, INC., SCOTTDDEL,
INC., FOAM EX INNOVATIONS, INC.,
FUTURE FOAM, INC., VITAFOAM
PRODUCTS CANADA LIMITED,
VITAFOAM, INC.,

Defendants.

CASE NO. 5:10-cv-00116

ORDER CONSOLIDATING RELATED CASES

THIS MATTER is before the Court upon Plaintiffs' Joint Motion for Consolidation of Related Cases and for Appointment of Interim Co-Lead and Liaison Counsel Plaintiffs, filed August 20, 2010, and amended August 24, 2010. (Documents ##14-18) The moving Plaintiff group is comprised of the following entities: Piazza's Carpet and Tile Co., Inc.; Jamestown Mattress Co., Inc.; Thompson Trading Company; Shoreline Carpet Supplies, Inc.; and V & M, Inc. d/b/a Costa International (collectively, the "Plaintiffs"). To date, seven other Plaintiffs (or Plaintiff groups) have filed similar, related actions in the Western District of North Carolina since the filing of Plaintiffs' joint motion.¹

¹ See Docket Nos.: 5:10CV118 (Martin Greenbaum Company, Inc.), 5:10CV120 (Pandolfi House of Carpets, Inc.), 5:10CV122 (T. Steven Lackey Carpets, et al.), 5:10CV125 (Suburban Floor Covering, Inc.), 5:10CV128 (Robert Sims Enterprises, LLC); 5:10CV129 (Foam Empire, Inc.), and 5:10CV131 (Thoroughbred Carpets, Ltd.).

On September 3, 2010, Defendant Carpenter Company (“Carpenter”) (identified by Plaintiffs in their respective Complaints as “The Carpenter Company”) submitted a Response in Opposition to the Joint Motion for Consolidation and Appointment of Interim Co-Lead and Liaison Counsel on behalf of certain Defendants.² (Document #28) Defendants do not oppose consolidation but suggest that appointment of Interim Lead Counsel and Liaison Counsel by this district court is premature in light of the recently filed motion for transfer and consolidation pursuant to 28 U.S.C. §1407 pending before the United States Judicial Panel on Multidistrict Litigation (“Panel”).³ Defendants’ concern is echoed by Alyanna Enterprises, Inc. (“Alyanna”), plaintiff in a related action originally filed in the Western District of Ohio.⁴

Because the above-captioned cases involve common questions of fact and law, the Court will grant the Plaintiffs’ Joint Motion for Consolidation.² The Court, however, will defer ruling on the Motion for Appointment of Interim Co-Lead and Liaison Counsel as interim appointment appears unnecessary at this time.

² The Defendant entities that join in Carpenter’s opposition include: Hickory Springs Manufacturing Company, Valle Foam Industries, Inc., DomFoam International, Inc., and Future Foam, Inc.

³ On August 31, 2010, the Court was notified by the United States Judicial Panel on Multidistrict Litigation (“Panel”) that a motion for transfer and consolidation pursuant to 28 U.S.C. § 1407 had been filed on behalf of some of the North Carolina Plaintiffs. (*See* MDL No. 2196 – IN RE: Polyurethane Foam Antitrust Litigation)

⁴ Alyanna, a party subject to the Panel’s ruling on Section 1407 transfer and pretrial consolidation, recently moved to intervene for purposes of being heard on these issues. (Document #31)

² In the event of transfer pursuant to 28 U.S.C. §1407 to another forum, this Order is, of course, subject to any subsequent decision by the designated transferee court.

IT IS, THEREFORE, ORDERED:

- 1) The above-captioned related actions are hereby consolidated into one action (“Consolidated Action”) for all purposes, pursuant to Federal Rule of Civil Procedure 42(a);
- 2) Civil Docket No.: 5:10CV111 is designated the “Lead Case” for purposes of organization within the Western District of North Carolina;
- 3) The following cases are hereby identified and designated a part of this Consolidated Action: 5:10CV118 (Martin Greenbaum Company, Inc.), 5:10CV120 (Pandolfi House of Carpets, Inc.), 5:10CV122 (T. Steven Lackey Carpets, et al.), 5:10CV125 (Suburban Floor Covering, Inc.), 5:10CV128 (Robert Sims Enterprises, LLC); 5:10CV129 (Foam Empire, Inc.), and 5:10CV131 (Thoroughbred Carpets, Ltd.);
- 4) All future civil actions that may be related to this Consolidated Action, whether subsequently filed within the Western District of North Carolina, or transferred to this district under 28 U.S.C. § 1404, should be identified by the filing party via a “Notice of Related Action” and as related to 5:10CV111 and “MDL No. 2196 – IN RE: Polyurethane Foam Antitrust Litigation”;
- 5) Any newly filed related action so identified by the Plaintiff and / or the Court will automatically be consolidated with 5:10CV111; and
- 6) Plaintiffs’ Joint Motion for Appointment of Interim Co-Lead and Liaison Counsel is deferred, or under advisement until such time as all interested litigants have a meaningful opportunity to be heard on selection.

Signed: September 13, 2010

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive style with a horizontal line underneath the text.

Richard L. Voorhees
United States District Judge

